



Crl.O.P.(MD)No.1554 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **15.03.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.1554 of 2021
and
Crl.M.P.(MD)No.741 of 2021

1.Soundar

2.Vanaraj

... Petitioners / Accused 1 & 2

Vs.

1.The State rep. by

The Inspector of Police,

Kadamalaikundu Police Station,

Theni District.

(Crime No.903 of 2020)

2.Balamurugan

... Respondents / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the complaint in S.T.C.No. 692 of 2020 on the file of the Judicial Magistrate, Aundipatti and to quash the same as far as the petitioners are concerned.

For Petitioners : Mr.V.Sankarapandi

For Respondents : Mr.M.Sakthikumar
Government Advocate (crl.side) for R1

: Mr.V.T.Prabhakaran,
legal aid counsel, for R2



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ORDER

This petition is filed to quash the complaint in S.T.C.No. 692 of 2020 on the file of the Judicial Magistrate, Aundipatti.

2. The case against the petitioner is that on 03.09.2020, at about 9.00 hours, when the defacto complainant came out of his house, the petitioner, who was a resident of the opposite house, scolded him in filthy language and the petitioners assaulted the defacto complainant. A case in Crime No.903 of 2020, under Sections 294(b) and 323 of I.P.C was registered against the petitioners.

3. On the side of the petitioners, it is stated that there was enmity between the petitioners and the defacto complainant and it was the defacto complainant, who picked the wordy quarrel with the petitioners and he scolded the petitioner. The petitioner filed a complaint against the defacto complainant and the same was registered in Crime No.904 of 2020 for the offences under Sections 294(b), 342, 323 and 355 of I.P.C. After investigation in Crime No.903 of 2020, the respondent police filed the charge sheet and the same was taken on file as S.T.C.No. 692 of 2020, under Sections 294(b) and 323 of I.P.C. There was a delay



in registering the F.I.R. No independent witness was examined on the side of the prosecution. When there is a counter case, under Section 588 of the Police Standing Order, it is the duty of the respondent police, to investigate both the cases and to find out, who was the aggressor, and find out who was not the aggressor, The respondent police failed to mention the pendency of the counter case in Crime No.904 of 2020. There is no specific overt act against this petitioners in the complaint.

4. On the side of the petitioners, it is further stated that the abusing words used by the petitioners were not mentioned in the F.I.R. No injury was caused on the defacto complainant. Even the defacto complainant has given a statement that he did not go to the hospital, since the injuries are simple. Only the defacto complainant and his wife were examined as witnesses. No independent witness was examined on the side of the prosecution.

5. On the side of the prosecution, it is stated that trial in both the cases are going on.

6. It is seen that the case was registered under Section 323 of I.P.C. The defacto complainant has given a statement that since the



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injuries are simple, he did not go to the Hospital. A perusal of the F.I.R reveals that the obscene words were not specifically mentioned in the complaint. The nature of the offence is only a wordy quarrel. Both the petitioners and the defacto complainant are neighbours.

7. In view of the same, it is decided that the petition is to be allowed and the case in S.T.C.No.692 of 2020, on the file of the Judicial Magistrate, Aundipatti, is to be quashed.

8. Hence, this Petition is allowed and S.T.C.No.692 of 2020, on the file of the Judicial Magistrate, Aundipatti, is hereby quashed. Consequently, connected Miscellaneous petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
Ls

15.03.2023



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To

- 1.The Judicial Magistrate,
Aundipatti.
- 2.The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.THARANI. J.

Ls

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